

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

RACHEL MOORE,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:23-cv-01764-CLM
)	
OLLIE’S BARGAIN OUTLET, INC.,)	
)	
Defendant.)	

**OLLIE’S BARGAIN OUTLET INC.’S
MOTION TO DISMISS AMENDED COMPLAINT**

COMES NOW Defendant, **Ollie’s Bargain Outlet, Inc.** (“Ollie’s”) and moves this Honorable Court pursuant to Rule 12 of the Federal Rules of Civil Procedure to dismiss Plaintiff’s Amended Complaint (Doc. 6) with respect to any claims asserted against it. Pursuant to Rules 12(b)(1) and 12(b)(6) Fed. R. Civ. Proc., all of Plaintiff’s claims against Defendant should be dismissed because Plaintiff has failed to allege sufficient facts to state a plausible claim for relief under any theory of liability. Plaintiff’s allegations are so vague and ambiguous that Defendant cannot reasonably prepare a response. Since Plaintiff has already had one opportunity to amend the Complaint and state a claim in accordance with the requirements of Rules 12(b)(1) and 12(b)(6) Fed. R. Civ. Proc., the Court should

dismiss the case. As set out more fully in Defendant's Memorandum Brief, Ollie's asserts the following grounds for this Motion:

1. Count One of the Amended Complaint does not state a plausible claim of negligence.

2. Count Two of the Amended Complaint does not state a plausible claim of wantonness.

3. Count Three of the Complaint improperly attempts to assert claims against fictitious parties when no such parties are sufficiently identified in the style or body of the Amended Complaint, no plausible claims are asserted against them and such pleading does not otherwise conform with accepted practices in federal court.

4. Plaintiff's Amended Complaint is so vague and ambiguous that Defendant cannot reasonably prepare a response.

WHEREFORE the above premises considered, Defendant submits that Plaintiff's Amended Complaint is due to be dismissed as not stating plausible claims for negligence and/or wantonness.

Respectfully submitted,

Defendant,
OLLIE'S BARGAIN OUTLET, INC.
By its attorney,

/s/ J. Allen Sydnor, Jr.
J. Allen Sydnor, Jr. (ASB-6517-D55J)

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2024, I electronically filed a copy of the above and foregoing **Defendant Ollie's Bargain Outlet Inc.'s Motion to Dismiss Plaintiff's Amended Complaint** with the Clerk of the Court using CM/ECF system which will send notification of such filing to those attorneys and/or I have placed a copy of the foregoing to attorneys/parties not set up for email notification via the United States mail, postage prepaid and properly address:

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/s/ J. Allen Sydnor, Jr.
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